76155 1N25A - SH-AD (11/90)

COUNTY OF LOS ANGELES

SHERIFF'S DEPARTMENT

DATE: January 31, 2002

OFFICE CORRESPONDENCE FILE:

FROM: RICHARD L. CASTRO, COMMANDER
TRAINING DIVISION

TO: JAMES N. GLAZAR, CAPTAIN
LOST HILLS STATION

SUBJECT: **EXECUTIVE FORCE REVIEW COMMITTEE FINDINGS AND RECOMMENDATIONS HIT SHOOTING, MAY 9, 2001, IAB REVIEW #2035583**

The purpose of this memo is to notify you of the review committee's findings and recommendations concerning the use of force incident which occurred on May 9, 2001.

The Committee met on January 31, 2002, and consisted of myself, Commander David Betkey (Commander of the Department) and Commander Patrick Mallon (Commander of the Department). The Committee determined that the use of force by Deputies Fray Lupian #[redacted] and Anthony Regalado #[redacted] was within Department policy. **Please advise the deputies of this finding.**

RLC:KRK:kk

TABLE OF CONTENTS

SH 2035583

SHOOTING INCIDENT EVALUATION

EXHIBITS

MISCELLANEOUS DOCUMENTS

Los Angeles County Sheriff's Department
Officer Involved Shooting

Report Date: MAY 9, 2001	Bureau/Station/Facility: MALIBU/LOST HILLS	Admin. Invest.? ☐	Hit? ☒

Incident Information

URN: 001-02790-2246-055	Date: MAY 9, 2001 Time: 2313 Hrs
City or Station: CALABASAS	Nature of Incident: DEPUTY INVOLVED SHOOTING-SUSPECT DEAD`
Location: [redacted] MULHOLLAND HWY., SP [redacted]	

Circled selections are shown in **bold**.

Location Type (*circle one or more*): Backyard, Beach, Business, Freeway, Industrial, Park, Parking Lot, **Residence**, Rural, School, Street, Other: ______

Lighting (*circle only one*): Darkness, Daylight, **Other**, Street Lights

Weather (*circle only one*): **Clear**, Cloudy, Fog, Rain

Distance:

Incident Type (*circle one or more*): Accidental, **Armed Person**, Fleeing Suspect, Foot Pursuit, Gun Take Away, Moving Vehicle, Sniper/Ambush, Startle, Struggle Involved, Traffic Stop, Unarmed Person, Unintentional, Vehicle Pursuit, Warrant Service, Other: ______

Initiated by (*circle only one*): Arrest Warrant, **Call**, Observation, One Person Unit, Other, Search Warrant, Two Person Unit

Prior Activity (*circle only one*): Detective, Inmate Transport, Other, **Routine Patrol**

Total # of Shots Fired by Deputy	Total # of Shots Fired by Suspect	Aero Unit?	Canine Unit?
10+1=11	0	☐	☐

Employee Witnesses

Employee #	Last Name	First Name	M.I.	ShiftTime (*circle only one*)	ShiftType (*circle only one*)
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty
				EM PM Day	Regular Overtime Off Duty

Non-Employee Witnesses

Last Name: [redacted]		First Name: [redacted]		M.I.	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I.	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph: [redacted]	
Last Name: [redacted]		First Name: [redacted]		M.I. [redacted]	
Street Address: [redacted]	City: [redacted]	Zip Code: [redacted]	Work Ph	Home Ph	

Supervisors

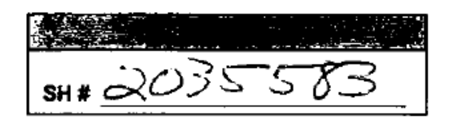
Employee #	Last Name	First Name	M.I.	(*circle one or more*)	
[redacted]	GOMEZ	RONALD	R.	**On Duty**, Present during shooting	Witness to shooting, Involved in shooting
[redacted]	BARNES	CRAIG	M.	**On Duty**, Present during shooting	Witness to shooting, Involved in shooting

Watch Sergeant

Employee #	Last Name	First Name	M.I.
[redacted]	MOAK	GEORGE	R.

Watch Commander

Employee #	Last Name	First Name	M.I.
[redacted]	MOAK	GEORGE	R.


SH # 2035583

Officer Involved Shooting

out Information

Arrival Date	Arrival Time	Date Submitted	Date of Recommendation
May 10, 2001	0100HRS		

Employee #	Last Name	First Name	M.I
[redacted]	MAULDIN	DONNIE	L.
[redacted]	SMITH	RICHARD	G.
[redacted]	HINES	WILLIAM	L.

Shooting / Force Information

Method

(AW) Arwen
(BC) Baton:(Control)
(BI) Baton:(Impact)
(BF) Bodily Fluids
(CN) Canine
(CR) Carotid Restraint
(CH) Choke Hold
(CT) Control Holds:(Control Techniques)
(TT) Control Holds:(Team Takedown)
(TD) Control Holds:(Takedown)
(CE) Chemical
(OC) Chemical Agents (OC Spray)
(TG) Chemical Agents (Tear Gas)
(EX) Explosives
(FH) Firearm (Handgun)
(FR) Firearm (Rifle)
(FS) Firearm (Shotgun)
(FO) Firearm (Other)
(FB) Flashbang
(FL) Flashlight
(OE) Other Weapon: Edged
(OV) Other Weapon: Vehicle
(OB) Other Weapon: Blunt Object
(OO) Other Weapon: Other
(PK) Personal Weapon: Feet/Leg: (Kick)
(PS) Personal Weapon: Feet/Leg: (Sweep)
(PH) Personal Weapon (Hand/Arm)
(PP) Personal Weapon (Push)
(PO) Personal Weapon (Other)
(RS) Resistance
(CN) Restraint Device (Capture Net)
(RH) Restraint Device (Handcuffs)
(HB) Restraint Device:Hobble (Legs Only)
(TP) Restraint Device:Hobble (TARP)
(RE) Restraint Device: REACT Belt
(SP) Sap
(SH) Shield
(SG) 37mm Stinger
(SB) Sting Ball
(ST) Stun Bag
(TR) Taser
(UC) Uncooperative

Type of Injury

(AB) Abrasion
(BR) Bruise
(BU) Burn
(CP) Complaint of Pain
(CO) Concussion
(DH) Death
(DI) Dislocation
(DB) Dog Bite
(FR) Fractures
(GS) Gunshot
(HB) Human Bite
(LC) Lacerations
(ND) Nerve Damage
(OD) Organ Damage
(PA) Paralysis
(PW) Puncture Wound
(SD) Soft Tissue Damage
(ST) Sprain/Twists
(UN) Unconscious
(RM) Refused Med Treatment
(NN) NONE

Body Part Injured

(AD) Abdomen
(AK) Ankle
(AR) Arm
(BK) Back
(BT) Buttocks
(CH) Chest
(EL) Elbow
(FA) Face
(FE) Feet
(FI) Fingers
(GE) Genitals
(GR) Groin
(HD) Hand
(HE) Head
(HI) Hip
(IN) Internal
(KN) Knees
(LE) Leg
(NK) Neck
(SH) Shoulder
(WR) Wrist

Brand

(AK) AK-47
(BN) Benelli
(BR) Beretta
(BW) Browning
(CH) Charter Arms
(CO) Colt
(DA) Davis Industries
(GL) Glock
(HA) Harrington & Richardson
(HI) Hi Standard
(HK) H & K
(IT) Ithica
(IV) Iver Johnson
(JE) Jennings
(LO) Lorcin
(LU) Luger
(MA) Marlin
(MO) Mossberg
(NC) NCI aka SKS
(NA) North American
(NO) Norinco
(RA) Raven
(RM) Remington
(RG) RG
(RI) RGI
(RO) Rossi
(SW) Smith & Wesson
(SR) Sturm Ruger
(ST) Sterling
(TA) Taurus
(WE) Weatherby
(WN) Winchester
(US) US Government
(YY) Handmade (Inmate)
(XX) Homemade (Non-Inmate)
(ZZ) Other Brand

Caliber

(9) 9 mm
(10) 10 mm
(12) 12 guage
(20) 20 guage
(21) .22-250
(22) .22 caliber
(23) .223 caliber
(24) .243 caliber
(25) .25 caliber
(30) .308 caliber
(35) .357 caliber
(36) 30-60 caliber
(38) .38 caliber
(40) .40 caliber
(41) .410 guage
(44) .44 caliber
(45) .45 caliber
(50) 50 mm
(SL) Slug
(WW) Other caliber

FORCE APPLIED *(one code per block)*

Used By (E# or S#)	Used Against (E# or S#)	Method (Code)	Brand (Code)	Caliber (Code)	Authorized Weapon? (Y/N)	Authorized Ammunition? (Y/N)	Type of Injury (Code)	Body Part (Code)
E#1	S#1	FH	BR	9	Y	Y	DH	CH
E#2	S#1	FH	BR	9	Y	Y	DH	CH

Officer Involved Shooting
Involved Employee Information

URN: 001-02790-2246-055

Involved Employee

E 1

Employee # [redacted]	Last Name LUPIAN	First Name FRAY	M.I. M.
Sex: M Race: H	Rank DEPUTY SHERIFF	Unit Assignment: LOST HILLS	Work Assignment (Unit #, Module, etc.): 224
ShiftTime (*circle only one*): EM (circled) PM Day	ShiftType (*circle only one*): Regular (circled) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: 8 HRS	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest (circled)	Other Factors:
Age: [redacted] Height: 5'06"	Weight: 158lbs		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

E 2

Employee # [redacted]	Last Name REGALADO	First Name ANTHONY	M.I. G.
Sex: M Race: H	Rank DEPUTY SHERIFF	Unit Assignment: LOST HILLS	Work Assignment (Unit #, Module, etc.): 224
ShiftTime (*circle only one*): EM (circled) PM Day	ShiftType (*circle only one*): Regular (circled) Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting: 6 HRS	Duty Time (hrs): [redacted]	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest (circled)	Other Factors:
Age: [redacted] Height: 5'06"	Weight: 150lbs		
Range Qualification Date: [redacted]	PPC Qualification Date: [redacted]	Laser Training Date: [redacted]	
Certified with Weapon Used? [redacted]	Patrol Certification? [redacted]	Certification Unit: [redacted]	Prior Shootings? [redacted] Number of Prior Shootings: [redacted]
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I.
Field Training Officer Emp # [redacted]	Last Name [redacted]	First Name [redacted]	M.I. [redacted]

E ___

Employee #	Last Name	First Name	M.I.
Sex: Race:	Rank	Unit Assignment:	Work Assignment (Unit #, Module, etc.):
ShiftTime (*circle only one*): EM PM Day	ShiftType (*circle only one*): Regular Overtime Off Duty	Intoxication/Drug Usage? ☐	Substance Used:
Hospital Admission? ☐	Hospital Name:	Coroner Case? ☐	Coroner Case # / Interviewed? ☐
Hrs of sleep prior to shooting:	Duty Time (hrs):	Clothing (*circle only one*): Plain Clothes no Vest, Raid Jacket w/ Vest, Plain Clothes w/ Vest, Uniform no Vest, Raid Jacket no Vest, Uniform w/ Vest	Other Factors:
Age: Height:	Weight:		
Range Qualification Date:	PPC Qualification Date:	Laser Training Date:	
Certified with Weapon Used? ☐	Patrol Certification? ☐	Certification Unit:	Prior Shootings? ☐ Number of Prior Shootings:
Field Training Officer Emp #	Last Name	First Name	M.I.
Field Training Officer Emp #	Last Name	First Name	M.I.

Officer Involved Shooting Suspect Information

URN: 001-02790-2246-055

Suspect Information

S 1

Last Name: PASKO	First Name: JOSEPH	M.I.: J.
AKA Last Name: ARNELLI	First Name: JOE	M.I.: N.

Sex: M Race: WHT	Street Address: [redacted]	City: [redacted]	State & Zip Code: [redacted]
Work Phone:	Home Phone:	Social Security #: [redacted]	Driver's License #: [redacted]
Age: 46 D.O.B. MAY 31, 1955	Height: 5'7" Weight: 165	FBI #: [redacted]	CII #: [redacted]
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☒	Coroner Case # 2001-03464	Intoxication/Drug Usage? ☒	Substance Used: ALCOHOL, PROZAC, METHADONE
Armed? ☒	Apprehended? ☐	Mental Illness? ☐	Criminal History? [redacted]
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

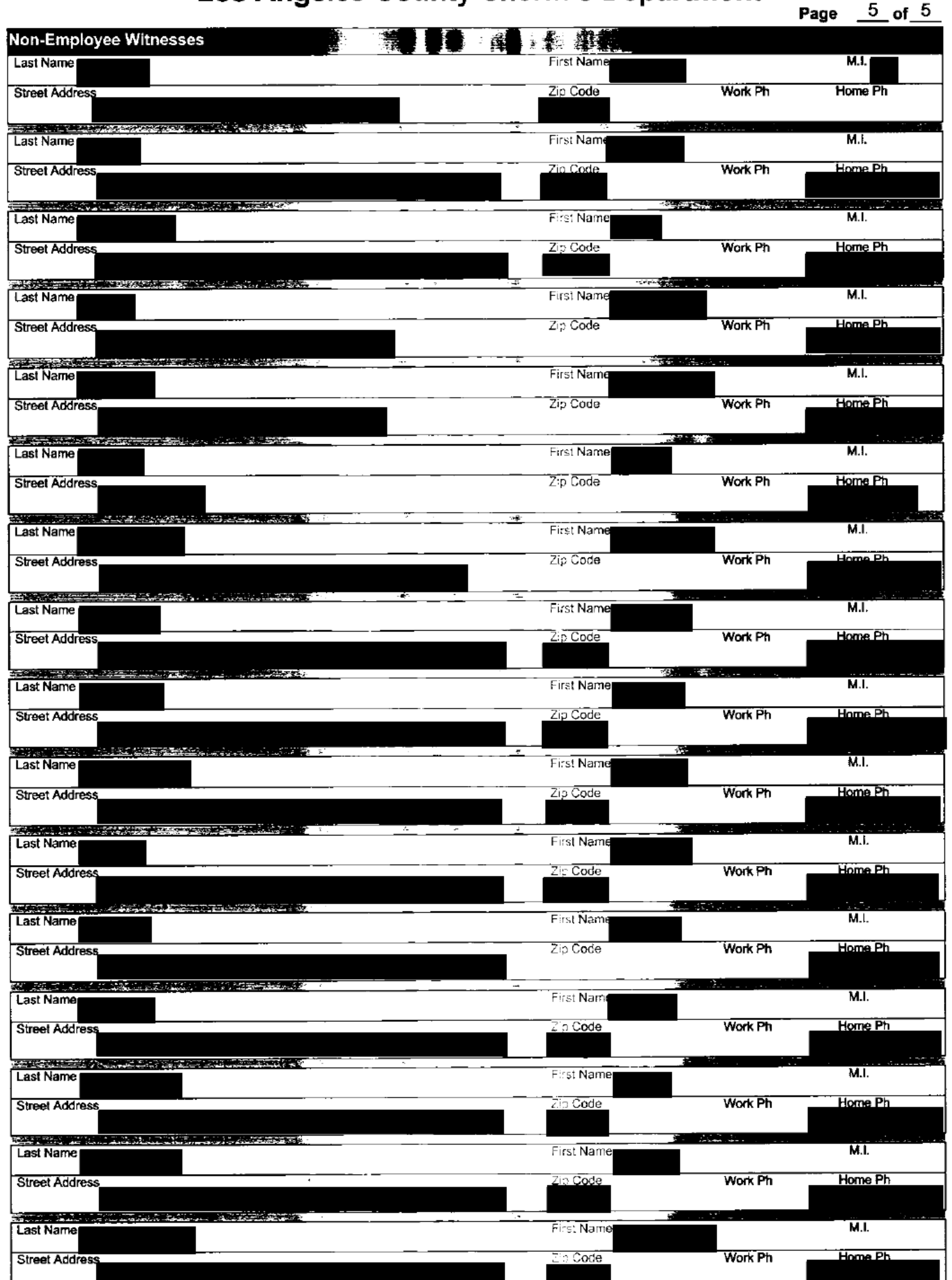
Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

S __

Last Name	First Name	M.I.
AKA Last Name	First Name	M.I.

Sex: Race:	Street Address:	City	State & Zip Code:
Work Phone:	Home Phone:	Social Security #:	Driver's License #:
Age: D.O.B.	Height: Weight:	FBI #	CII #
Booking #	Primary Charge:	Secondary Charge:	
Coroner Case? ☐	Coroner Case #	Intoxication/Drug Usage? ☐	Substance Used:
Armed? ☐	Apprehended? ☐	Mental Illness? ☐	Criminal History? ☐
Vehicle Make		Model:	Year:

SUPPLEMENTAL NON-EMPLOYEE WITNESSES
Los Angeles County Sheriff's Department



Non-Employee Witnesses

Last Name	First Name	M.I.	Street Address	Zip Code	Work Ph	Home Ph
[redacted]	[redacted]	[redacted]	[redacted]	[redacted]		
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]			[redacted]
[redacted]	[redacted]		[redacted]			[redacted]
[redacted]	[redacted]		[redacted]			[redacted]
[redacted]	[redacted]		[redacted]			[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]
[redacted]	[redacted]		[redacted]	[redacted]		[redacted]

INVESTIGATIVE SUMMARY
USE OF FORCE
TYPE: DEPUTY INVOLVED SHOOTING–SUSPECT DEAD
I.A.B. FILE NUMBER: SH 2035583
URN: 001-02790-2246-055

On Thursday, May 10, 2001, Lieutenant Donnie Mauldin, Sergeants Richard Smith and William Hines of the Internal Affairs Bureau, responded to [redacted] Mulholland Hwy., Sp #[redacted] regarding a Deputy Involved Shooting involving Malibu/Lost Hills Station personnel. Lieutenant Thomas Martin and Detectives Michael Bumcrot, Richard Green, Frank Salerno and David Carver from Homicide Bureau were on scene to conduct the criminal investigation.

The summary of this incident is based on information obtained from interviews of the involved employees and witnesses, whose individual statements are contained in the Homicide Bureau case package (**refer Exhibit A**).

INVOLVED PERSONNEL:

Lupian, Fray, Deputy	#[redacted]	MH[redacted]	5'06"/158lbs
Regalado, Anthony, Deputy	#[redacted]	MH[redacted]	5'06"/150lbs

EMPLOYEE WORK HISTORY:

Deputy Lupian is a 13 year Department veteran who has worked at Malibu/Lost Hills Station since May 1995, and as a [redacted]

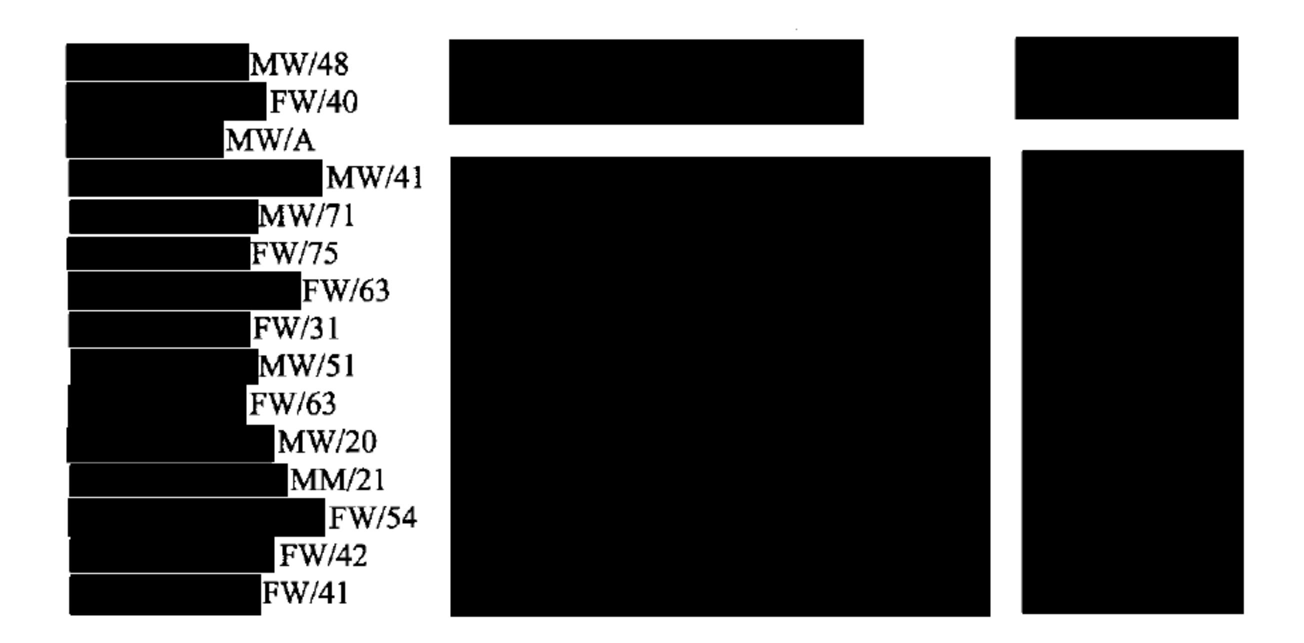
Deputy Regalado is a 4 ½ year Department veteran who has worked at Malibu/Lost Hills Station since January 28, 2001 and was on [redacted]

SUSPECT/INMATE:

Pasko, Joseph	MW/46	5'07"/165 lbs

WITNESSES:

[redacted] FW/49	[redacted]	[redacted]
[redacted] MW/46	[redacted]	[redacted]
[redacted] FW/70	[redacted]	
[redacted] MW/14	[redacted]	
[redacted] MW/65	[redacted]	[redacted]
[redacted] MW/69	[redacted]	[redacted]



[redacted] MW/48	[redacted]	[redacted]
[redacted] FW/40		
[redacted] MW/A		
[redacted] MW/41	[redacted]	[redacted]
[redacted] MW/71		
[redacted] FW/75		
[redacted] FW/63		
[redacted] FW/31		
[redacted] MW/51		
[redacted] FW/63		
[redacted] MW/20		
[redacted] MM/21		
[redacted] FW/54		
[redacted] FW/42		
[redacted] FW/41		

INJURIES:

Suspect pronounced dead at the scene.

No deputies injured.

PHYSICAL EVIDENCE:

Homicide Investigators examined Deputy Lupian's Department issued Beretta, Model 92F, Serial # [redacted] They found one live Departmental issued 9MM round in the chamber and four live rounds in the magazine. They examined Deputy Regalado's Department issued Beretta, Model 92F, Serial # BER [redacted] They found one live Departmental issued 9MM round in the chamber and fourteen live rounds in the magazine **(refer Exhibit A, pages 43 & 58)**. Both firearms were examined by Firearms Examiner Deputy Jeff Walley, # [redacted] and found to be functional. For further details regarding the evidence found at the crime scene, refer to Homicide Investigators Carver and Salerno's supplemental report **(refer Exhibit A, pages 24 thru 35)**.

INVESTIGATOR OBSERVATIONS:

There were clothes strewn about on the back porch leading to the door through which the deputies entered the residence. Standing on the back porch, a clear view into the residence was provided by an approximate 3'x4' window that Deputy Lupian shot through **(refer Exhibit C)**.

WEAPONS USED BY DEPUTY PERSONNEL:

Deputy Lupian, Fray #[redacted]
Service Weapon, eleven rounds of duty issue ammunition fired

Deputy Regalado, Anthony #[redacted]
Service Weapon, one round of duty issue ammunition fired.

WEAPONS USED BY SUSPECT:

Pasko, Joseph MW/45
Spyder Compact 2000 paint ball gun, silver barrel, black handgrips and front sight **(refer Exhibit E)**.

PROPERTY DAMAGE:

Approximate 3'x4' window with 1 bullet hole in it.
One bullet hole in the floor of the mobile home.
One bullet hole in a cabinet door.
One bullet in a wall.

Deputy Anthony Haynes, Civil Litigation Unit, advises that no civil claims relating to property have been filed.

CRIMINAL INVESTIGATOR AND CHARGES FILED:

Homicide Bureau
Detective Michael Bumcrot #[redacted]
Detective Richard Green #[redacted]

No pending charges due to suspects death.

LIGHTING OR WEATHER CONDITIONS:

At the time of the incident it was nighttime requiring illumination inside residences. The incident location was illuminated by lamps and in-ceiling light fixtures.

INVOLVED EMPLOYEES STATEMENTS:

Deputy Fray Lupian

Deputy Lupian said on the day this incident occurred, he was working uniformed patrol in Unit 224, Early Morning Shift, with his partner Deputy Anthony Regalado. He was the driver and Deputy Regalado was the bookman. They received a radio call of a disturbance, drunk male

threatening his [redacted] and [redacted] at the location. When they arrived, they contacted the suspect's [redacted] who told them that the suspect had left the location, and as a result, they left the location.

Deputy Lupian said that approximately fifteen minutes later they received a second radio call at a location [redacted] houses away from the original address, which stated that the same male was again at the location and was breaking items inside the residence. As they were responding, the radio call was updated to include that the suspect was now fighting with a [redacted] Based on this information, a unit was requested to respond code 3 and, as they were the closest unit, they were assigned the response.

Deputy Lupian said when they arrived they parked in front of the residence next to the incident location. As they exited their radio car, they could hear arguing inside the incident location. They approached the rear door of the location and saw a pile of clothing on the stairs. Based on the updated information in the radio call, and the arguing they heard as they exited their radio car, they feared for the safety of the people inside the location. He and Deputy Regalado entered the residence and walked down a short hallway. He looked around the corner towards the front of the trailer and he, Deputy Lupian, saw his partner draw his gun and say "drop the gun." Deputy Lupian looked around his partner and saw the suspect with a telephone in his left hand, which he was yelling into. He said he saw a "stainless steel" weapon in the suspect's right hand.

Deputy Lupian said he knew the suspect was pointing the weapon at his partner because he could see the "barrel" of the weapon and his partner was "taking cover" behind the wall that separated the hall and the living area. He was concerned the suspect would shoot through the wall and strike him and/or his partner. At this point, he exited the location, stood on the porch outside the door they had entered through and attempted to broadcast emergency traffic on his radio; however, his radio was not working. From this vantage point, he could see through a window, which was right next to the porch, and saw the suspect pointing a gun at his partner and heard the suspect say he was going to shoot him. He told the suspect to drop his gun which caused the suspect to turn and point his gun at him. At this point, he heard a "bang," believed the suspect was firing at him and, fearing for his life, he fired his weapon at the suspect. The suspect fell to the floor and he believed the suspect was attempting to rise, so he continued to fire at the suspect. He then broadcast a "998" and requested paramedics to respond to the location.

Deputy Anthony Regalado

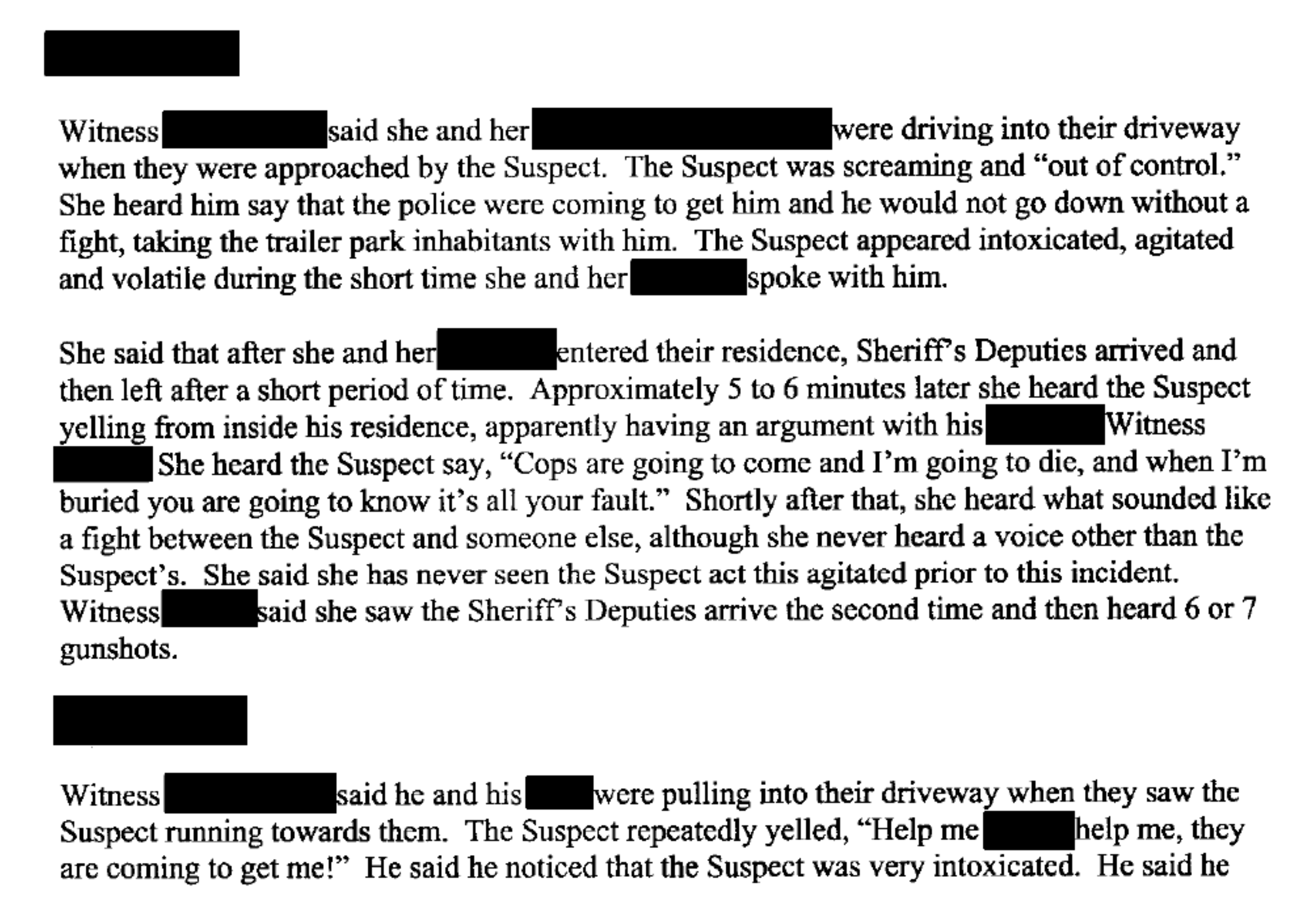
Deputy Regalado said on the day of the incident he was working uniformed patrol in Unit 224, Early Morning Shift, with his partner and [redacted] Deputy Fray Lupian. Deputy Lupian was driving and he was the bookman. They received a radio call of a male possibly under the influence of narcotics causing a disturbance at the location. When they arrived, they contacted the suspect's [redacted] who advised them the suspect had been drinking and had left the location.

Deputy Regalado said that a short time after they had left the location they received another

radio call at the location. This call indicated that the suspect had returned and was now breaking items inside the location. As they were responding, the call was updated indicating the suspect was now fighting with the resident and a code 3 response was authorized. Upon their arrival, they exited their radio car and he heard someone yelling, "I'm going to kill you. I'm going to kill you." Based on the information in the call of a fight occurring inside the location and these statements, he feared for the safety of the people inside the residence. He ran into the location through the rear door and looked around a corner into the office area. He was immediately confronted by the suspect who was raising a gun to point it at him. He took cover behind the wall and drew his weapon. During this time, his partner, Deputy Lupian, had run outside and was broadcasting emergency traffic on the radio.

Deputy Regalado said he looked around the corner again and saw the suspect who was now "waving" his gun towards him. Fearing that he was going to be shot, he told the suspect to drop his gun several times. The suspect did not comply, at which time he fired one round at the suspect, believing that he struck the suspect in "center mass." The suspect fell to the floor, his partner, Deputy Lupian, entered the location and requested paramedics to render medical assistance to the suspect.

WITNESSES STATEMENTS:



[redacted]

Witness [redacted] said she and her [redacted] were driving into their driveway when they were approached by the Suspect. The Suspect was screaming and "out of control." She heard him say that the police were coming to get him and he would not go down without a fight, taking the trailer park inhabitants with him. The Suspect appeared intoxicated, agitated and volatile during the short time she and her [redacted] spoke with him.

She said that after she and her [redacted] entered their residence, Sheriff's Deputies arrived and then left after a short period of time. Approximately 5 to 6 minutes later she heard the Suspect yelling from inside his residence, apparently having an argument with his [redacted] Witness [redacted] She heard the Suspect say, "Cops are going to come and I'm going to die, and when I'm buried you are going to know it's all your fault." Shortly after that, she heard what sounded like a fight between the Suspect and someone else, although she never heard a voice other than the Suspect's. She said she has never seen the Suspect act this agitated prior to this incident. Witness [redacted] said she saw the Sheriff's Deputies arrive the second time and then heard 6 or 7 gunshots.

[redacted]

Witness [redacted] said he and his [redacted] were pulling into their driveway when they saw the Suspect running towards them. The Suspect repeatedly yelled, "Help me [redacted] help me, they are coming to get me!" He said he noticed that the Suspect was very intoxicated. He said he

would calm the Suspect and then he would quickly become agitated again. The Suspect said, "They are coming to get me, they are not going to take me, I'm a gladiator, I ain't going. They are going to have to kill me." The Suspect also said he could blow up the trailer park if he wanted. He said the Suspect was always a little odd; however, on the morning of the incident the Suspect was acting more peculiar than ever and he scared them.

Witness [redacted] said he saw Sheriff's Deputies arrive and then leave a short time later. After the Deputies left, he heard the Suspect yelling at his [redacted] He heard the Suspect say, "When they bury me, you are going to know how it feels," and he believes the Suspect was preparing himself to get shot. Over the next 30 to 40 minutes the yelling would start and stop, at times becoming so loud and physical as to sound as if the "trailer was rolling off it's blocks." He said he saw the Deputies arrive the second time and, after a short period of time, he heard 5 to 7 gunshots.

[redacted]

Witness [redacted] is the [redacted] of the Suspect and resided at the location with him and the Suspect's [redacted] his [redacted] On the night of the incident, the Suspect had been drinking and his [redacted] had subsequently "kicked" the Suspect out of the house for his inappropriate actions. The Suspect returned, and when he was denied access by Ms. [redacted] had broken the screen on the back door gaining entry to the residence. The Suspect chased him and his [redacted] out of the residence and, while in the residence, obtained his, [redacted] paint ball gun. He and his [redacted] ran to the [redacted] residence where she, [redacted] called the Sheriff's Station. A short time after the Sheriff's were called, he heard 5 to 7 shots that he believed were from his paint ball gun.

[redacted]

Witness [redacted] said the Suspect was her [redacted] and had been living with her at the location since December 2000. She said the Suspect has been in and out of psychiatric hospitals for many years and described him as "disturbed." On the evening of the incident, she could tell the Suspect had been drinking and had come home very angry over a disagreement he had with her [redacted] She told the Suspect to leave [redacted] alone and he subsequently "snapped" and went into a "rage." She said this was not the first time the Suspect had acted in this manner and she was afraid of him. The Suspect began yelling and screaming at her and, eventually, he grabbed some clothes and left the location. During this tirade,, her [redacted] and [redacted] of the trailer park had called the Sheriff's Department. Deputies responded and contacted her, at which time she told them the Suspect had left the location. After hearing this, the Deputies left the location.

A short time later, the Suspect returned and demanded entry which she denied. The Suspect broke the screen on the back door and entered the residence, yelling that he was going to physically hurt [redacted] At this point, she again feared for her and [redacted] safety. She took [redacted] and ran to the [redacted] residence and asked her to call the Sheriff's Department.

During the incident, she heard several gunshots coming from the direction of her residence, but did not know if the Deputies had arrived or not.

Witness [redacted] described the Suspect's actions as acting "like a madman" and "yelling like a maniac." She repeatedly stated that the Suspect's actions scared her. She also said that the Suspect was currently using the prescription medicines "Methadone" and "Prozac."

[redacted]

Witness [redacted] of the trailer park, said that, at approximately 2315 hours, he was at the corner of Alcamo Dr. and Conden Dr. when he saw a male wearing dark clothing walk past him. A short time later, he heard two males yelling at each other. He then saw the male wearing dark clothing, running up and down Alcamo Dr. yelling obscenities. The male ran to the [redacted] residence where he began kicking the front door and yelling, "you fat bitch." "I'll kill you, you son of a bitch," and "I know my rights." The male then ran towards space [redacted] the location of the incident. Shortly after the male ran to space [redacted] he saw a radio car arrive, two deputies got out, and ran towards the rear of the residence at space [redacted] Approximately 30 to 60 seconds after the Deputies ran to the rear of the location, he heard 5 or 6 gunshots.

[redacted]

Witness [redacted] said he was inside his residence watching the 2300 hour news when he heard a male yelling outside his residence. He went outside onto his porch and saw a male wearing dark clothing walking towards the clubhouse of the trailer park. He saw the male attempting to gain entry by kicking at the kitchen door and also through the double doors on the north side. He said the male was yelling and screaming as he attempted to gain entry to the clubhouse. He went back inside his residence and a several minutes later he heard 6 gunshots in rapid succession. He heard Witness [redacted] yell for him to call 9-1-1, which he did. He went outside and saw a "black and white" police car arrive and two Deputies get out and move towards space [redacted]

[redacted]

Witness [redacted] said he was leaving his friends residence at [redacted] walking towards his car, when he heard 6 gunshots in rapid fire. He returned to his friends and called 9-1-1.

[redacted]

Witness [redacted] said she was [redacted] to the Suspect from 1981 to 1989. During this time, they had several physical altercations. She said that on the night of the incident the Suspect had called and left a message on her answering machine. She said that was the last time the Suspect had attempted to contact her.

[redacted]

Witness [redacted] said he was the Suspect's [redacted] He said the Suspect used heroin and when he got depressed he would threaten to kill people.

[redacted]

Witness [redacted] said he was the [redacted] of the Suspect's [redacted] and the [redacted] of witness [redacted] He has known the Suspect for twenty years and stated the Suspect had been addicted to heroin for 15 years and had been committed to a mental hospital. He said the Suspect was a "very angry and absolutely crazy person."

[redacted]

Witness [redacted] said that at approximately 2200 hours he was awakened by a male voice coming from his [redacted] neighbor in space [redacted] The male was shouting, "We live here. We own this house. Fuck you." He said the male kept repeating those statements over and over. At approximately 2230 hours, he was again awakened by the same male voice repeating the same statements. He did not hear anyone respond to the statements nor did he look to see who was making the statements. At approximately 2300 hours, he heard the shouting again and called 9-1-1 to report a fight at the location. At approximately 2330 hours, he thought he heard gunshots and again called 9-1-1.

Judith Stuart

Witness [redacted] said that on the night of the incident, from inside her residence, she heard 4 gunshots.

[redacted]

Witness Ellingson said that at approximately 2200 hrs she heard the Suspect yelling at someone. She walked to the Suspect's residence and saw him standing on his porch yelling obscenities at his neighbors in Sp [redacted] She spoke to the residents in Sp [redacted] and then went to the Suspect's trailer. She looked through the window and saw him on the phone. She tapped on the window and the Suspect exited his trailer and continued his profanity. To avoid a confrontation, she told him to stop his profanity and then left the location.

Witness [redacted] said when she reached her trailer she saw Witness [redacted] Suspect's [redacted] and told her about the incident, telling her the Suspect was in a rage and the Sheriff's needed to be called. Witness [redacted] said she would take care of it and went to her trailer. Approximately 15 to 20 minutes later, Witness [redacted] called her and told her to call the Sheriff's Department. She placed the call and, a short time later, Deputies arrived and things quieted down. A few

minutes later, while standing outside her residence, she saw the Suspect walking towards his trailer. A short time after that, Witness [redacted] called her and asked her to call the Sheriff's again, explaining that the Suspect was not at the residence when the Deputies were there the first time.

Witness [redacted] said within moments of her call she saw Witness [redacted] run into her (Witness [redacted] trailer. She also saw the Suspect chasing Witness [redacted] along the side of her residence, holding something in his hands, with his arms outstretched and pointed in Witness [redacted] direction. She said the Deputies arrived while Witness [redacted] and [redacted] were in her trailer. She then heard what she thought were three gunshots.

[redacted]

Witness [redacted] said she was awake inside her trailer when she heard 7 rapid gunshots.

Remaining Witnesses

All the remaining witnesses were awake inside or outside (Witness [redacted] their trailers and related substantially the same as Witness [redacted] hearing between 5 and 8 gunshots.

SUSPECT/INMATE STATEMENTS:

None/deceased



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

STEVE COOLEY • District Attorney
LAWRENCE E. MASON • Chief Deputy District Attorney
PETER BOZANICH • Assistant District Attorney

DAVID H. GUTHMAN • Direc

December 18, 2001

Captain Frank Merriman
Los Angeles County Sheriff's Department
Homicide Bureau
5747 Rickenbacker Road
Los Angeles, California 90040

Dear Captain Merriman:

Re: J.S.I.D. File # 01-0407
L.A.S.D. File # 001-02790-2246-055

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the May 9, 2001 fatal shooting of 45-year-old Joseph John Pasko by Los Angeles County Sheriff's Deputies Fray Lupian and Anthony Regalado. We have concluded that Deputies Lupian and Regalado acted lawfully in self-defense and in defense of others.

The following analysis is based upon a thorough examination of the 268-page report submitted to this office on November 15, 2001 by Detective Michael Bumcrot of the Sheriff's Homicide Bureau. A total of 236 photographs were also submitted and reviewed. The District Attorney's Command Center was notified of the shooting May 10, 2001 at 12:09 a.m. Deputy District Attorney Thomas Krag and District Attorney Bureau of Investigation Senior Investigator [redacted] responded to the location of the shooting and were given a briefing regarding the incident and a "walk through" by Lieutenant Tóm Martin of the Sheriff's Department Homicide Bureau.

District Attorney personnel participated in interviews of civilian witnesses on the date of the incident at the shooting scene and at the Lost Hills Sheriff's Station. Additionally, District Attorney Senior Investigator [redacted] was present at Pasko's autopsy conducted at the Los Angeles County Department of Coroner on May 11, 2001.

FACTUAL ANALYSIS

On May 9, 2001, at approximately 10:30 p.m., Sheriff's Deputies Lupian and Regalado received a radio call of a disturbance within a mobile home park located at [redacted] Mulholland Highway, Calabasas. According to the call, the person causing the disturbance was possibly under the influence of narcotics and was fighting with his [redacted] The uniformed deputies were partner officers assigned to a fully marked radio patrol car. When they arrived at the location, a mobile

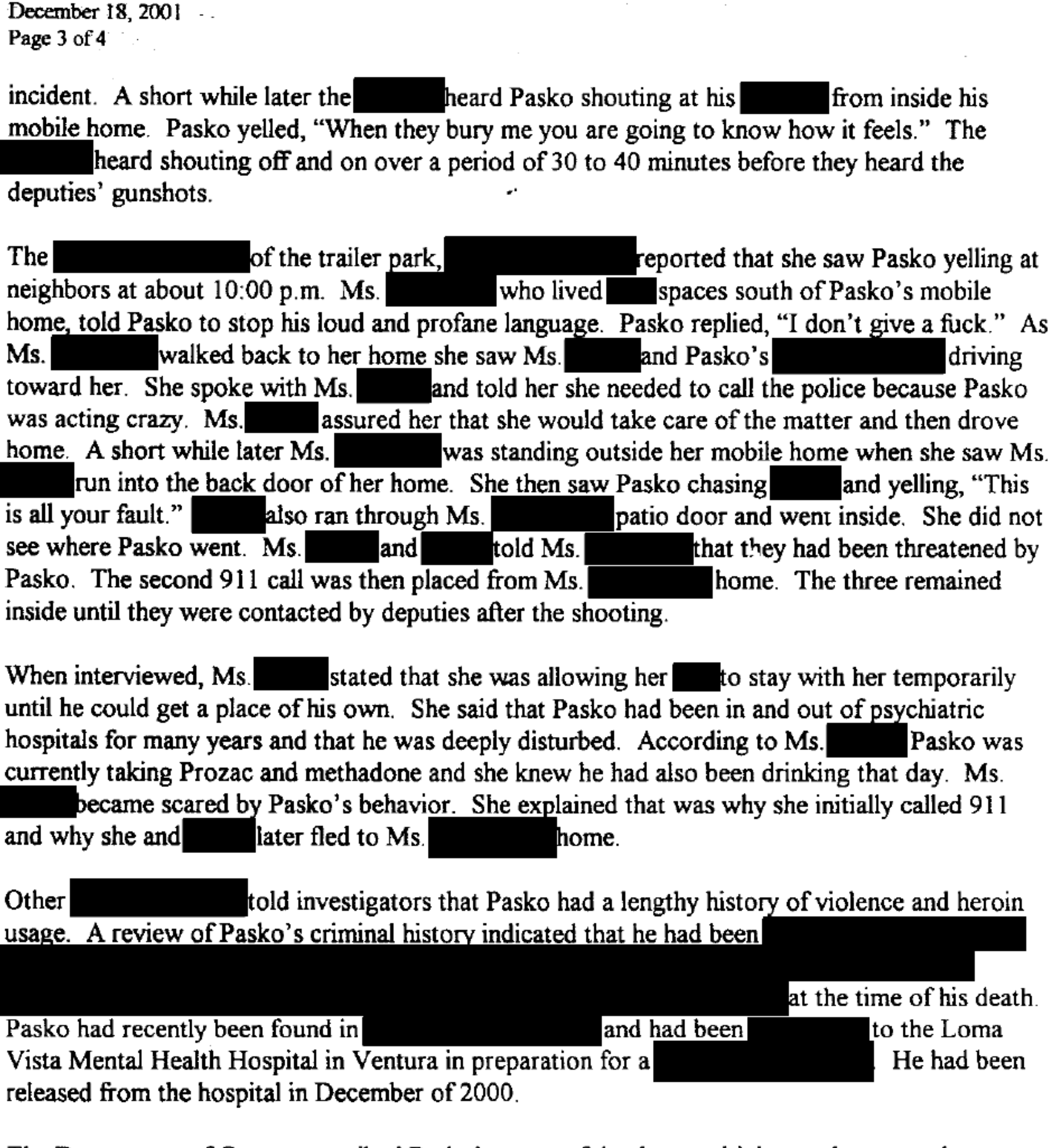
home located at the park's space [redacted] the deputies contacted [redacted] - the [redacted] of Joseph John Pasko. Ms. [redacted] told the deputies that her [redacted] had already left the area. As was later determined, Pasko lived at the location with his [redacted] and his 14-year-old [redacted] After checking the area without locating Pasko, the deputies left the mobile home park and resumed their patrol duties.

At about 11:06 p.m. Deputies Lupian and Regalado received a second radio call regarding the same location. This call indicated that the subject from the earlier call was now trying to break into the mobile home and was fighting with his mother. The deputies arrived just outside the mobile home about eight minutes after they received the second radio call.

The deputies got out of their patrol car and approached the doorway of the mobile home. A commotion could be heard inside. Pasko was yelling and Deputy Regalado heard him say, "I'm going to kill you." Deputy Regalado quickly entered the mobile home through the front entrance and was confronted by Pasko who was standing about eight feet away pointing what clearly appeared to be a large caliber handgun at him. Deputy Regalado immediately retreated behind an interior wall just inside the entryway and repeatedly ordered Pasko to drop the weapon. Deputy Lupian, who had been directly behind his partner when they first entered, looked over his partner's shoulder and saw Pasko pointing the gun at them. Fearing that the mobile home's thin walls would provide no protection, Deputy Lupian exited the mobile home. Once outside, Deputy Lupian saw Pasko through a large window. Pasko was yelling into a telephone he held in his left hand and continued to point the gun he held in his other hand at Deputy Regalado.

Deputy Lupian stood about eight feet from Pasko separated only by window glass when he saw Pasko move the gun toward his direction. Simultaneously, the deputies fired their drawn pistols at Pasko. Deputy Regalado, still inside the mobile home and fearing he was going to be shot through the wall by Pasko, turned around the corner of the entryway and fired a single round at Pasko. Deputy Lupian, believing that Pasko was taking aim at him, fired a total of eleven rounds through the window. Pasko died at the location having sustained multiple gunshot wounds. Pasko's weapon was a .68 caliber "Spyder Compact 2000" paint ball gun. It had a silver barrel with a black grip and trigger and black sights. This writer observed the paint ball gun and concurs with the deputies that it appears similar to a large caliber semi-automatic firearm.

Interviews with Pasko's [redacted] indicated that Pasko had been drinking and acting highly agitated and paranoid that evening. The neighbors immediately to the [redacted] and [redacted] arrived home before the deputies made their first call to the mobile home park. They saw Pasko running toward them screaming in a hysterical manner. Pasko stated the police were coming to get him and that he was not going to go back to jail without a fight. [redacted] tried to calm Pasko but to little avail. Pasko stated, "I'm a gladiator, I ain't going. They're going to have to kill me." Pasko also told Mr. [redacted] that he could blow up the entire trailer park if he wanted to. Pasko, who was obviously intoxicated, appeared to calm down and the [redacted] went into their mobile home. A few minutes later they heard the deputies arrive and depart without



incident. A short while later the [redacted] heard Pasko shouting at his [redacted] from inside his mobile home. Pasko yelled, "When they bury me you are going to know how it feels." The [redacted] heard shouting off and on over a period of 30 to 40 minutes before they heard the deputies' gunshots.

The [redacted] of the trailer park, [redacted] reported that she saw Pasko yelling at neighbors at about 10:00 p.m. Ms. [redacted] who lived [redacted] spaces south of Pasko's mobile home, told Pasko to stop his loud and profane language. Pasko replied, "I don't give a fuck." As Ms. [redacted] walked back to her home she saw Ms. [redacted] and Pasko's [redacted] driving toward her. She spoke with Ms. [redacted] and told her she needed to call the police because Pasko was acting crazy. Ms. [redacted] assured her that she would take care of the matter and then drove home. A short while later Ms. [redacted] was standing outside her mobile home when she saw Ms. [redacted] run into the back door of her home. She then saw Pasko chasing [redacted] and yelling, "This is all your fault." [redacted] also ran through Ms. [redacted] patio door and went inside. She did not see where Pasko went. Ms. [redacted] and [redacted] told Ms. [redacted] that they had been threatened by Pasko. The second 911 call was then placed from Ms. [redacted] home. The three remained inside until they were contacted by deputies after the shooting.

When interviewed, Ms. [redacted] stated that she was allowing her [redacted] to stay with her temporarily until he could get a place of his own. She said that Pasko had been in and out of psychiatric hospitals for many years and that he was deeply disturbed. According to Ms. [redacted] Pasko was currently taking Prozac and methadone and she knew he had also been drinking that day. Ms. [redacted] became scared by Pasko's behavior. She explained that was why she initially called 911 and why she and [redacted] later fled to Ms. [redacted] home.

Other [redacted] told investigators that Pasko had a lengthy history of violence and heroin usage. A review of Pasko's criminal history indicated that he had been [redacted] at the time of his death. Pasko had recently been found in [redacted] and had been [redacted] to the Loma Vista Mental Health Hospital in Ventura in preparation for a [redacted]. He had been released from the hospital in December of 2000.

The Department of Coroner ascribed Pasko's cause of death to multiple gunshot wounds. Pasko's blood alcohol level was measured at .24 percent. Prozac and methadone were also detected in his blood.

CONCLUSION

California law permits the use of deadly force in self-defense or in the defense of another if it reasonably appears to the person claiming the right of self-defense or the defense of another that he actually and reasonably believed that he was in imminent danger of great bodily injury or death.

People v. Williams (1977) 75 Cal. App. 3d 731.

In protecting himself or another, a person may use all force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. *CALJIC* 5.30. 5.32.

By pointing what appeared to be a large caliber handgun at Deputies Lupian and Regalado, Pasko presented them with a very real, credible, and imminent appearance of danger. The deputies both believed that they were about to be shot and reasonably responded to the apparent threat against their lives by shooting Pasko in self-defense and in defense of each other. The portrait of Pasko's disturbed life and suicidal thought processes shortly before the shooting only reinforces the conclusion that the deputies acted appropriately under the circumstances.

Having concluded that Deputies Lupian and Regalado acted lawfully, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By

THOMAS R. KRAG
Deputy District Attorney
213/974-3888

c: Deputy Fray Lupian, Serial No. [redacted]
Deputy Anthony Regalado, Serial No. [redacted]